

**AMENDMENTS TO THE CLAIMS:**

This listing of claims will replace all prior versions and listings of claims in the application:

Claims 1-13 (Canceled)

14. (Currently Amended) A medical device and delivery system, comprising:  
a shape memory alloy element having a restrained shape, a deployed shape and an associated  $M_d$  temperature, the shape memory alloy element having been deformed at or above  $M_d$  into an at least partially deformed configuration; and  
a hollow delivery system holding the at least partially deformed shape memory alloy element in an austenitic state in its restrained shape,  
wherein the shape memory element self-expands into the deployed shape when not held by the delivery system.

15. (Previously Presented) The medical device and delivery system of claim 14, wherein the shape memory alloy includes nickel and titanium.

16. (Previously Presented) The medical device and delivery system of claim 14, wherein the medical device includes a stent.

17. (Previously Presented) The medical device and delivery system of claim 14, wherein the delivery system includes a catheter.

18. (Previously Presented) The medical device and delivery system of claim 14, wherein the shape memory alloy does not generate stress-induced martensite from being at least partially deformed into a restrained shape.

19. (Previously Presented)      The medical device and delivery system of claim 14, further comprising a restraint configured to receive the shape memory alloy at a temperature at or above  $M_d$ , wherein the shape memory alloy is a tubular member with proximal and distal ends and the restraint is secured around the shape memory alloy in its deformed configuration.

20. (Previously Presented)      The medical device and delivery system of claim 14, wherein the shape memory alloy is for use within a mammalian body or in close proximity to the mammalian body such that the device is at mammalian body temperature.

21. (Previously Presented)      The medical device and delivery system of claim 20, wherein the mammalian body temperature is about 35 to 40 degrees C.

22. (Previously Presented)      The medical device and delivery system of claim 14, wherein the shape memory alloy has an austenite start temperature ( $A_s$ ), an austenite finish temperature ( $A_f$ ), and a martensite deformation temperature ( $M_d$ ).

23. (Previously Presented)      The medical device and delivery system of claim 22, wherein the shape memory alloy includes the martensite deformation temperature ( $M_d$ ) of about 50 degrees C or more above the austenite finish temperature ( $A_f$ ).

24. (Previously Presented)      The medical device and delivery system of claim 14, wherein the shape memory alloy is in an austenitic state at room temperature of about 22 degrees C.

25. (New)      The medical device and delivery system of claim 22, wherein the shape memory alloy element self expands at a temperature above  $A_f$  and below  $M_d$ .